REMARKS/ARGUMENTS

Upon entry of the instant amendment, claims 1-9 are pending. Claims 1, 6 and 8 have been amended to more particularly point out the applicant's invention. It is respectfully submitted that upon consideration of the remarks below, an entry of the instant amendment, the application is in consideration for allowance.

CLAIM REJECTIONS - 35 U.S.C. § 103

Claims 1 and 4-6 have been rejected under 35 U.S.C. § 103 as being unpatentable over Levenson US Patent No. 6,496,634 ("the Levensen patent") and Sanghera et al US Patent Application Publication No. US 2005/0025965 A1 ("the Sanghera et al publication"). It is respectfully submitted that the Examiner has failed to set forth a *prima facie* case of obviousness as required by the MPEP § 2143. In particular, a prima facie case of obviousness under MPEP § 2143 requires the following criteria to be met:

> *"First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."*

The invention relates to a laser with an output in the eye-safe range. It is respectfully submitted that, *inter alia*, the references do not teach all of the claim limitations. In particular, the fiber 100 disclosed in the Levinson patent is not a photonic band gap fiber. Even though the Sanghera et al publication discloses a photonic band gap fiber, it does not disclose the combination of the photonic band gap fiber with a laser and gas selected to provide an output wavelength in the eye-safe range. .

The Levenson et al teaches the use of a Raman fiber for shifting the output wavelength of the laser using a Raman fiber. As is known in the art, such Raman fibers are quite long., often hundreds of meters long. The Examiner's attention is respectfully directed to Grudinin et al US Patent Application Publication No. US 2003/0021302 A1 ("the Grudinin et al publication"), which is of record in this case. In particular paragraph [0078] of the Grudinin et al publication indicates that the fiber length can range from 100 meters to 1 kilometer. The present invention does away with the use of the Raman fibers and instead uses a photonic band gap fiber with much shorter fiber lengths. For example, the Table 1 of the instant application illustrates a fiber length (i.e. 10 meters); an order of magnitude shorter than a corresponding Raman fiber (i.e. 100 meters). As the Examiner mentions, the photonic band gap fibers were known as early as 1999, yet the other references of record, namely the Levensen patent and the Grudinin et al publications, filed well after 1999, teach the use of Raman fibers. Thus, it is respectfully submitted that the references teach away from the invention recited in the claims at issue. Moreover, the Examiner has failed to show that there was a suggestion to combine the references as required by the MPEP § 2143. For all of the above reasons, the Examiner is respectfully requested to reconsider and withdraw this rejection of Claims 1 and 4-6.

Claims 2, 3 and 8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Levinson patent and the Sanghera et al publication and further in view of "the Grudinin et al publication". These claims recite the use of a photonic band gap fiber. As mentioned above, the Levensen patent and the Grudinin et al publication teach away from the use of a photonic band gap fiber. For these reasons and the above reasons, the Examiner is respectfully requested to reconsider and withdraw the rejection of Claims 2, 3 and 8.

Claims 7 and 9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Levenson pant and the Sanghera and Grudinin et al publications and further in view of Bobbs, et al., U.S. Patent No. 4,922,495. Claim 7 is dependent upon claim 6, which also recites a hollow core photonic band gap fiber filled with H_2 gas. As mentioned above, the Levensen and Grudinin et al publications teach away from the use of a photonic band gap fiber. The Bobbs, et al. patent, likewise, does not disclose such a hollow core photonic band gap filter. For all of the above reasons, the Examiner is respectfully requested to reconsider and withdraw the rejection of these claims.

Respectfully submitted,

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